

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 L.E., by his next friends and
5 parents, SHELLEY ESQUIVEL and
6 MARIO ESQUIVEL,

7 Plaintiff,

8 vs.

 No.: 3:21-cv-00835

9 BILL LEE, in his official
10 capacity as Governor of
11 Tennessee, et al.,

 Chief Judge Crenshaw

12 KNOX COUNTY BOARD OF
13 EDUCATION a/k/a KNOX COUNTY
14 SCHOOL DISTRICT; ROBERT M.
15 "BOB" THOMAS, in his official
16 capacity as Director of Knox
17 County Schools,

 Magistrate Judge
 Newbern

18 Defendants.

19 Videoconference Deposition of:

20 HELEN J. CARROLL

21 Taken on behalf of the Defendants
22 August 9, 2022

23 Commencing at 11:02 a.m.

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I N D E X

	Page
Examination By Ms. Bergmeyer	7
Examination By Ms. Buchert	127
Examination By Ms. Bergmeyer	129

E X H I B I T S

	Page
Exhibit No. 1 Expert Report of Helen Carroll	16
Exhibit No. 2 Carroll YouTube Screen Shot	32
Exhibit No. 3 LPGA Gender Policy	38
Exhibit No. 4 News Article, 5/14/21, Late-filed	40
Exhibit No. 5 Images of Tweets, Late-filed	59
Exhibit No. 6 News Article, Late-filed	98
Exhibit No. 7 News Article, Late-filed	110

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2 S T I P U L A T I O N S
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4 The videoconference deposition of
5 HELEN J. CARROLL was taken by counsel for the
6 Defendants, by Notice, with all participants
7 appearing at their respective locations, on
8 August 9, 2022, for all purposes under the
9 Tennessee Rules of Civil Procedure.

10 All objections, except as to the form of
11 the question, are reserved to the hearing, and said
12 deposition may be read and used in evidence in said
13 cause of action in any trial thereon or any
14 proceeding herein.

15 It is agreed that Deborah H. Honeycutt,
16 Notary Public and Licensed Court Reporter for the
17 State of Tennessee, may swear the witness remotely,
18 and that the reading and signing of the completed
19 deposition by the witness is not waived.
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* * *

THE REPORTER: Good morning. My name is Deborah Honeycutt. I am a stenographic reporter with Elite-Brentwood Reporting Services. My license number is 472.

Today's date is August 9, 2022, and the time is approximately 11:02 a.m. Central time.

This is the deposition of Helen J. Carroll in the matter of L.E. by his next friends and parents, Shelley Esquivel and Mario Esquivel vs. Bill Lee, Governor of Tennessee, et al., filed in the United States District Court for the Middle District of Tennessee, Nashville Division. The Case Number is 3:21-cv-00835. This deposition is being taken by videoconference, and the oath will be administered remotely by me.

At this time, I'll ask counsel to identify yourselves and state whom you represent. If you have any objections with the procedures I've outlined, please state so when you introduce yourself. We will start with the noticing attorney.

MS. BERGMEYER: Good morning. This is Stephanie Bergmeyer with the Tennessee Attorney General's Office. And with me are Clark Hildabrand

1 and Travis Royer. We represent the State Defendants
2 in this lawsuit.

3 MS. BUCHERT: Good morning. This is
4 Sasha Buchert. And I am representing the plaintiff
5 in this lawsuit. And joining me are Thomas
6 Costello-Vega and our intern Brianna White.

7 MR. SANDERS: All right. Good morning.
8 This is David Sanders, representing the Knox County
9 Board of Education and Dr. Jon Rysewyk.

10
11 * * *

12 HELEN J. CARROLL,
13 was called as a witness, and after having been duly
14 sworn, testified as follows:

15
16 EXAMINATION

17 QUESTIONS BY MS. BERGMAYER:

18 Q. Please state your name for the record.

19 A. Helen Carroll.

20 Q. Ms. Carroll, my name is Stephanie Bergmeyer.
21 I just introduced myself, but I'm with the Tennessee
22 Attorney General's Office. Have you ever given a
23 deposition before?

24 A. Yes.

25 Q. Okay.

1 On page three, paragraph 12, you state that I
2 have, the beginning of, start from the beginning. I
3 have consulted with ten NCAA institutions through
4 their development and implementation of policies
5 providing equal treatment to transgender student
6 athletes. And this next part is what I'm going to
7 ask you about.

8 A. Okay.

9 Q. And I have consulted with seven state high
10 school athletic associations through their
11 development and implementation of policies providing
12 equal treatment to transgender student athletes.
13 And my question is, which state high school athletic
14 associations did you consult with?

15 A. Not sure I can name all seven but I'll try.
16 Virginia. North Carolina. Florida. California.
17 Colorado. Washington State. I'm not thinking of
18 the seventh one.

19 Q. Pretty good.

20 A. I will note that I did not write any policies
21 for those states. I just worked with them and they
22 wrote their own state policies.

23 Q. When you consulted with these state athletic
24 associations, that was in your role as the sports
25 program director for the National Center for Lesbian

1 athletes, like I say, going against what their state
2 athletic association studied and spent a number of
3 years working to implement.

4 Q. Do you know which states follow inclusive
5 policies for transgender athletes?

6 MS. BUCHERT: Objection.

7 THE WITNESS: The 16?

8 BY MS. BERGMEYER:

9 Q. Yes.

10 A. I can't name the 16. It's well documented on
11 several web sites and -- but I don't have that in
12 front of me so I can't read those off.

13 Q. Could you provide us with the names of five
14 states?

15 A. Yes. Washington State. California.
16 Virginia. North Carolina. Florida.

17 Q. Do you know if the policies for transgender
18 athletes are the same in each state?

19 MS. BUCHERT: Objection.

20 THE WITNESS: They are the same in
21 principle that transgender student athletes in high
22 school may participate without medical intervention,
23 and then each state may have a little different
24 procedure on how for those, in the eligibility for
25 those student athletes to let the state association

1 please?

2 BY MS. BERGMEYER:

3 Q. So is it your testimony that because Chelsea
4 Mitchell got a scholarship her feelings don't
5 matter?

6 MS. BUCHERT: Objection.

7 BY MS. BERGMEYER:

8 Q. Or don't count?

9 MS. BUCHERT: Same objection.

10 THE WITNESS: I did not say her feelings
11 don't matter. I am saying that she is not harmed
12 because she got a good scholarship to a college.

13 BY MS. BERGMEYER:

14 Q. Are you familiar with Lia Thomas, a swimmer
15 in the NCAA conference?

16 A. Yes.

17 Q. Will you admit that there are women who have
18 lost medals, podium spots, or qualifying positions
19 because of Lia Thomas's participation in women's
20 swimming?

21 MS. BUCHERT: Objection.

22 THE WITNESS: I will not concede that
23 because Lia is a woman and other women are women.

24 BY MS. BERGMEYER:

25 Q. Will you admit that Lia Thomas has beaten

1 cisgender women in women's swimming?

2 MS. BUCHERT: Objection.

3 THE WITNESS: I will say that she has
4 beat cisgender women and cisgender women have beat
5 her. As in all athletics, you win and you lose.

6 BY MS. BERGMEYER:

7 Q. You have cisgender women who have lost to Lia
8 Thomas. Have they incurred a harm?

9 MS. BUCHERT: Objection.

10 THE WITNESS: No.

11 BY MS. BERGMEYER:

12 Q. Why not?

13 MS. BUCHERT: Same objection.

14 THE WITNESS: Because Lia Thomas is
15 eligible by NCAA regulations to compete in the
16 events she competes in. So she is viewed as a woman
17 by the NCAA, so she is a woman competing against
18 other women.

19 BY MS. BERGMEYER:

20 Q. Currently after this year's NCAA swimming
21 championships, the International Swimming Federation
22 changed this policy with regard to transgender
23 women. Are you aware of that?

24 A. Yes.

25 Q. Okay. Are you aware of why the International

1 Swimming Federation changed its policy?

2 MS. BUCHERT: Objection.

3 THE WITNESS: I don't know for a fact
4 why. But my opinion is that it's a reaction to one
5 swimmer, Lia Thomas. So they reacted to one swimmer
6 and made an extreme policy.

7 BY MS. BERGMEYER:

8 Q. Is the International Swimming Federation
9 wrong for changing its policy?

10 MS. BUCHERT: Objection.

11 THE WITNESS: In my opinion, yes, they
12 are wrong, but I can't really say as a fact as I'm
13 not a scientist or I'm not in the decision-making
14 body of swimming to make that decision. I do know
15 that their policy as it reads now -- and it could
16 have changed in the last couple of days because they
17 were making it different every month or so -- is
18 established to really prevent any transgender woman
19 swimmer in college from ever getting to participate.

20 So it's based on exclusion for the
21 college athlete, maybe not for the Olympic athlete,
22 but definitely it's based for exclusion for the
23 college athletes. And I don't support any exclusion
24 of athletes, especially when they meet -- they have
25 met the eligibility requirements for a period of

1 BY MS. BERGMEYER:

2 Q. You mention that one national governing body
3 USA Swimming has issued a policy since 2022 policy
4 of the NCAA was announced; is that correct?

5 A. Yes.

6 Q. Are you familiar with the USA Swimming
7 Report?

8 A. The policy, yes.

9 Q. Okay. And what are you aware of with regard
10 to the USA Swimming Report?

11 A. Well, the policy first began with a
12 three-year waiting period for transgender women to
13 swim. And then it did change to you cannot swim at
14 all unless you have stopped hormones prepuberty.

15 Q. So has that policy become more restricted to
16 transgender athletes?

17 MS. BUCHERT: Objection.

18 THE WITNESS: For college athletes it --
19 it pretty much does not allow them to participate at
20 all. They would only have one year to participate,
21 so it is very restrictive.

22 BY MS. BERGMEYER:

23 Q. Are you aware of the World Rugby Policy?

24 A. Yes.

25 Q. Okay. And what are you aware about that

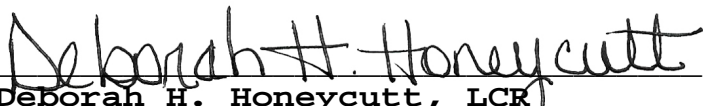
REPORTER'S CERTIFICATE

STATE OF TENNESSEE

COUNTY OF DAVIDSON

I, Deborah H. Honeycutt, Licensed Court Reporter, with offices in Hermitage, Tennessee, hereby certify that I reported the foregoing videoconference deposition of HELEN J. CARROLL by machine shorthand to the best of my skills and abilities, and thereafter the same was reduced to typewritten form by me. I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome of the proceedings.

I further certify that in order for this document to be considered a true and correct copy it must bear my original signature, and that any unauthorized reproduction in whole or in part and/or transfer of this document is not authorized, will not be considered authentic, and will be in violation of Tennessee Code Annotated 39-14-104, Theft of Services.


Deborah H. Honeycutt, LCR
Elite-Brentwood Reporting Services
Associate Reporter
Notary Public State of Tennessee

My Notary Public Commission Expires: 07/09/24
LCR # 472 - Expires: 06/30/24